

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division**

Case No. _____ – Civil

KEVIN BRADLEY BURNETT, II

Plaintiff,

v.

RIDDELL, INC. *d/b/a* RIDDELL SPORTS COMPANY;

ALL AMERICAN SPORTS CORPORATION
d/b/a RIDDELL/ALL AMERICAN;

RIDDELL SPORTS GROUP, INC.;

BRG SPORTS, LLC *f/k/a* EASTON-BELL
SPORTS, LLC;

EB SPORTS CORPORATION;

BRG HOLDINGS CORPORATION;

and

BRG SPORTS, INC. *f/k/a* EASTON-BELL
SPORTS, INC.,

Defendants.

PLAINTIFF'S COMPLAINT

COMES NOW, Plaintiff, Kevin Bradley Burnett, II (“**Plaintiff**” or “**Mr. Burnett**”), by and through his undersigned counsel, and for his Complaint against Defendants, Riddell, Inc. *d/b/a* Riddell Sports Company., All American Sports Corporation *d/b/a* Riddell/All American, Riddell Sports Group, Inc., EB Sports Corp., Inc., BRG Holdings Corporation, BRG Sports, LLC *f/k/a* Easton-Bell Sports, LLC, and BRG Sports, Inc. *f/k/a* Easton-Bell Sports, Inc. (collectively “**Riddell Defendants**”), states the following:

INTRODUCTION

Mr. Burnett is a former starting linebacker for the Oakland Raiders in the National Football League (“**NFL**”) and several other NFL teams. Mr. Burnett played in the NFL from 2005 until 2013. In March 2013, Mr. Burnett signed a two-year contract with the Oakland Raiders worth five million two hundred fifty thousand dollars (\$5,250,000.00). In December 2013, Mr. Burnett suffered a concussion during a game from a blow to the head that prevents Mr. Burnett from playing professional football again.

The Riddell Defendants have engaged in the business of designing, developing, manufacturing, selling, and distributing football equipment, including helmets, since 1922. Currently and at the time that Mr. Burnett played in the NFL, the Riddell Defendants’ helmets were the official helmets of the NFL. Despite being in the business of designing, developing, manufacturing, selling, and distributing football helmets for many years, the Riddell Defendants failed to properly design and manufacture football helmets that protected NFL players, like Mr. Burnett, against the foreseeable risk of concussive brain injuries and mild traumatic brain injuries despite years of research linking the impacts suffered by football players to concussions. Further,

the Riddell Defendants engaged in inaccurate marketing campaigns that falsely promoted their equipment as protecting football players against concussions.

With this Complaint, Mr. Burnett seeks damages related to the Riddell Defendants' defective design of its helmets, failure to warn of foreseeable risk associated with the helmets' use, negligence, and negligent misrepresentation. The Riddell Defendants misrepresented the effectiveness of its helmets, which, in turn, resulted in Mr. Burnett sustaining brain injuries.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a) because it is between citizens of different states and because the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

2. Venue is appropriate pursuant to 28 U.S.C. § 1391(b) because the Defendants are subject to the court's personal jurisdiction with respect to the instant action, and a portion of the events forming the basis of this Complaint occurred in this District.

PARTIES

3. Mr. Burnett is an individual whose principal residence is Florida.

4. Defendant, Riddell, Inc. d/b/a Riddell Sport Company ("**Riddell, Inc.**") is an Illinois corporation with its principal place of business in Illinois. Riddell, Inc. designed, manufactured, sold, distributed, and/or marketed football equipment, including helmets, to the public and to the NFL. Riddell, Inc. is a wholly owned subsidiary of Riddell Sports Group, Inc.

5. Defendant, All American Sports Corporation ("**All American**"), is a Delaware corporation with a principal place of business in Ohio.

6. Defendant, Riddell Sports Group, Inc. (“**RSG**”), the parent corporation to Riddell, Inc. and All American, is a Delaware Corporation with its principal place of business in Irving, Texas.

7. Defendant, BRG Sports, Inc. (“**BRG Inc.**”), formerly known as Easton-Bell Sports, Inc., is a Delaware Corporation with a principal place of business in Van Nuys, California.

8. BRG Inc. (and its predecessor corporation, Easton-Bell Sports, Inc.) directly participates in the design, development, marketing, and distribution of branded athletic equipment and accessories, including Riddell football helmets.

9. BRG Sports Holdings Corporation (“**BRG Holdings**”), formerly known as BRG Holdings Corporation, is a Delaware corporation with its principal place of business in Van Nuys, California.

10. Defendant, EB Sports Corporation (“**EB Sports**”), is a Delaware corporation with its principal place of business in Van Nuys, California.

11. BRG Sports, LLC (“**BRG LLC**”), formerly known as Easton-Bell Sports, LLC and also formerly known as Riddell Holdings, LLC, is a Delaware entity, with a principal place of business in Van Nuys, California.

FACTUAL BACKGROUND

12. The Riddell Defendants were a significant provider of helmets for NFL players during Mr. Burnett’s career. At all relevant times during Mr. Burnett’s NFL career, he wore a Riddell helmet.

13. The Riddell Defendants, as the primary manufacturer of helmets for the NFL, had the duty to protect players from unreasonable harm considering its marketing campaigns that falsely promoted their equipment as protecting football players against concussions.

14. Through the Riddell Defendants' partnership with the NFL and its ordinary business operations, the Riddell Defendants accumulated research and knowledge about head injuries suffered by NFL players and the associated risk. The Riddell Defendants were in a superior position to obtain information related to these sorts of head injuries as compared to NFL players, and this position imposed a duty to inform Mr. Burnett and other NFL players of the risk of concussions and long-term brain damage.

15. Instead of warning Mr. Burnett and other NFL players of these risks, the Riddell Defendants ignored and concealed the information and breached their duty to Mr. Burnett by failing to design helmets that could withstand foreseeable risk during ordinary and intended use, or provide him with adequate warnings of the risks.

16. From 1994 to 2010, the NFL, NFL Properties, LLC/National Football League Properties, Inc. ("**NFL P**"), and the Riddell Defendants (collectively, the "**Conspirators**") joined together to fund the Mild Traumatic Brain Injury Committee ("**MTBI Committee**") to research and study how mild traumatic brain injury affects NFL players. By voluntarily engaging themselves into this research, the Conspirators undertook the duty to make truthful statements, especially to those that the brain injuries directly affected like Mr. Burnett. In fact, the Riddell helmets gave a false sense of safety to the NFL players, including Mr. Burnett.

17. The Conspirators breached their duties by producing and then promoting research through the MTBI Committee that falsely claimed that concussive and subconcussive head impacts do not present serious, life-altering risks, and disputed other accepted and valid neuroscience regarding the connection between repetitive traumatic brain injuries and concussions and degenerative brain disease.

18. Upon information and belief, the MTBI Committee only funded research by others if the research supported its agenda of downplaying the risks and long-term effects of repetitive head trauma experienced by athletes, including Mr. Burnett.

19. Due to the Riddell Defendants' involvement in the athletic protection gear industry, its significant role in the MTBI Committee, and the growing body of peer-reviewed, well-respected medical and scientific studies on the effect of traumatic head impacts, they knew or should have known of the risks and dangers associated with repetitive head trauma on NFL players.

20. The Riddell Defendants failed to design and manufacture a helmet for use by NFL players, including Mr. Burnett, that could protect the players from foreseeable injuries, such as concussions, during its intended use.

21. Riddell helmets contained the same defective design that were in the hands of the Riddell Defendants and Mr. Burnett.

22. In 2002, the Riddell Defendants released their Revolution helmet. The Riddell Defendants falsely claimed that their Revolution helmet could reduce the likelihood of concussions by 31 percent.

23. The Riddell Defendants knew or should have known that helmets are ineffective in decreasing the rotational forces that result in mild traumatic brain injuries.

24. The Riddell Defendants knew or should have known that this claim was false because no study demonstrated the superiority of the Riddell Revolution helmet over other helmets.

25. The Riddell Defendants failed to provide adequate warnings to Mr. Burnett and other NFL players about the long-term effects of mild traumatic brain injuries that they could sustain while using a Riddell helmet, including the Riddell Revolution helmet, as intended.

26. Upon information and belief, the Riddell Defendants knowingly have failed to utilize the safest materials available to them in the construction of football helmets, which has resulted in an increased risk of brain injury in football players.

27. The Riddell Defendants knew or should have known that materials such as thermoplastic polyurethane are better suited to be used in football helmets.

MR. BURNETT'S INJURIES

28. Mr. Burnett was born in Inglewood, California, and was an excellent high school student.

29. Mr. Burnett attended and played football at the University of Tennessee. There, he completed an undergraduate degree in Education and a master's degree in Sports Administration in just four years while playing Division I football.

30. In 2005, Mr. Burnett was drafted to play professional football by the Dallas Cowboys in the second round of the NFL Draft.

31. Mr. Burnett enjoyed a nine-year NFL career, but it was cut short by injury. Over that time, he played at the linebacker position.

32. While playing for the Miami Dolphins, Mr. Burnett suffered concussions in Miami, Florida.

33. Due to Riddell's misrepresentations about mild traumatic brain injuries and concussions and the protections afforded by Riddell helmets, Mr. Burnett continued to play football.

34. In 2013, Mr. Burnett was enjoying one of his most productive seasons as a starting linebacker.

35. In December of 2013, during his last NFL game, Mr. Burnett sustained head trauma while wearing a Riddell helmet, causing him to lose consciousness on the field of play.

36. When Mr. Burnett regained consciousness, he was on the sidelines with the training staff, who told him that he “was out of it.”

37. Mr. Burnett was diagnosed with a concussion and never has been well enough to return to the game of football. His physicians and other professionals who have evaluated Mr. Burnett advise that he will never safely play football again.

38. As a result of the injury suffered by Mr. Burnett, he has been diagnosed with very significant problems related to his balance and his vision.

39. By way of example, the speed of Mr. Burnett’s eyes to the right is substantially slower than the speed of his eyes to the left. Additionally, Mr. Burnett could not successfully perform the finger-to-nose exam conducted during his neurological exam.

40. Mr. Burnett has also received a neuropsychological evaluation, which determined he suffers from permanent neurocognitive impairment and Post-Concussion Syndrome.

41. Mr. Burnett has undergone a study of his brain waves, which demonstrated the damage to be very consistent with that diagnosed by the medical professionals.

42. Mr. Burnett has received multiple professional medical opinions stating that he risks further and more significant brain damage if he returns to the NFL. Based on these risks and his injuries, Mr. Burnett will never play another down in the NFL.

43. To explain the severity of his injury, Mr. Burnett’s doctors have advised him that today, he would not likely pass a roadside sobriety test as a result of his brain issues caused by the concussion that he suffered that day. He suffers from severe headaches and nausea, and he has significant balance and vision problems, in addition to other maladies.

44. The damage was caused by and arose from the concussion that Mr. Burnett received in the game for the Raiders in December 2013 while wearing a Riddell helmet. The damage was

aggravated due to the fact that Mr. Burnett has suffered previous concussions and other subconcussive impacts as virtually all professional football players have.

COUNT I – NEGLIGENCE

45. Plaintiff reasserts and realleges each of the foregoing paragraphs as if fully set forth herein.

46. The MTBI Committee was formed to study and report information that the effect of head impacts would not just be for the benefit of all athletes, but also the medical community and the general public. The Riddell Defendants knew or should have known that the MTBI Committee's statements would have a broad public impact and would be relied upon by all members of the football community and the public as well.

47. By voluntarily engaging itself to study and report information about the effect of head impacts for the benefit of athletes and the general public, the Riddell Defendants assumed a duty to exercise reasonable care in carrying out the MTBI Committee's work and the reporting of its findings, particularly to the football athletes like Mr. Burnett who are directly impacted and affected by the reporting of its findings.

48. The Conspirators filled the MTBI Committee with inadequately trained members, who also had strong ties to the Conspirators and conflicted personal interests in the outcome of the work.

49. The MTBI Committee knew or should have known that repetitive blows to the head, concussions and subconcussive impacts would result in both an immediate impact as well as latent diseases that could occur within a few days, weeks, months and many years as a result of these strikes to the brain. Instead, the Conspirators, acting through the MTBI Committee, concealed, downplayed and misrepresented the studies and research performed, failed to release

accurate data and results, and misrepresented, concealed or entirely omitted the accurate results of its research.

50. The Conspirators undertook the duty to research the impact of the concussions for the benefit of athletes and the general public, but failed to perform their duties properly and as a reasonable person would expect, thus breaching this duty.

51. The Riddell Defendants' failure to exercise reasonable care in their voluntarily assumed duty increased the risk that Mr. Burnett would suffer long-term neurocognitive injuries, thus breaching this duty again.

52. Mr. Burnett reasonably relied to his detriment on the Riddell Defendants' actions, research, and omissions on the subject.

53. But for Defendants' failure to perform their duties to properly research and disclose the impact of the concussions for the benefits of athletes like Mr. Burnett, Mr. Burnett's injuries would not have occurred.

54. Under all of the above circumstances, it was reasonably foreseeable that the Riddell Defendants' failure to exercise reasonable care in the execution of their voluntarily undertaken duties would cause or substantially contribute to the personal injuries suffered by Mr. Burnett by:

- a. Failing to use their superior knowledge and information to the benefit of Mr. Burnett;
- b. Failing to seat qualified, peer-reviewed scientists on the MTBI Committee;
- c. Filling the MTBI Committee seats with individuals who were not adequately trained or knowledgeable about the subject matter of the research;

- d. Filling the MTBI Committee seats with individuals who had personal conflicts of interest;
- e. Failing to select investigators and MTBI Committee members who would fairly and honestly undertake the investigations;
- f. Failing to allow the MTBI Committee to function independently of Conspirators and their industries and interests;
- g. Failing to conduct adequate research;
- h. Failing to conduct accurate research;
- i. Failing to retain investigators who were not biased and self-interested in the study outcomes to the extent that they had an interest in skewing the outcomes to their own favor, which was directly against the best interest of Mr. Burnett;
- j. Failing to undertake appropriate research in a scientific manner;
- k. Failing to report accurate findings from the research undertaken;
- l. Failing to disclose accurate information about the research;
- m. Failing to disclose truthful and accurate data to the scientific community;
- n. Failing to act without bias and self-interest, which clouded and tainted the outcomes of their studies; and
- o. Failing to accurately undertake and report upon the research that was the subject and the purpose of the MTBI Committee in the first place.

55. The Riddell Defendants' failure to exercise reasonable care in the execution of their voluntarily undertaken duties proximately caused or contributed, and directly caused or contributed, to Mr. Burnett's injuries and damages.

56. The Riddell Defendants were additionally negligent in their design, testing, assembly, manufacturing, marketing, and engineering of the helmets as described herein.

57. The Riddell Defendants owed a duty of care to Mr. Burnett in their design, testing, manufacture, assembly, marketing and sale of the helmets and all components of the helmets.

58. The Riddell Defendants knew or should have known that repeated blows to the head can lead to brain injuries with long-term effects.

59. The Riddell Defendants breached their duty of reasonable care by failing to provide necessary and adequate safety and instructional materials and warnings of the risk and means available to reduce and/or minimize the risk of concussive brain injuries while using their helmets.

60. In being the primary provider of helmets to NFL players during Mr. Burnett's NFL career, the Riddell Defendants had a duty to ensure that the equipment and materials they manufactured and had licensed was of the highest possible quality and sufficient to protect Mr. Burnett from the risk of injury, including, but not limited to, the unnecessary risk of brain injuries.

61. The Riddell Defendants breached their duties by providing defective Riddell helmets for use while knowing or having reason to know that these products were negligently and defectively designed and manufactured.

62. The Riddell Defendants knew or had reason to know that these products not only did not protect Mr. Burnett from mild traumatic brain injury or minimize the risk of such harm, but actually increased that risk and contributed to such harm.

63. As a result of the Riddell Defendants' negligence, Mr. Burnett suffered injuries and damages and losses, and Mr. Burnett is entitled to, and seeks, all damages allowed by applicable law.

COUNT II – STRICT LIABILITY FOR DESIGN DEFECT

64. Plaintiff reasserts and realleges each of the foregoing paragraphs as if fully set forth herein.

65. At the time the helmets were designed, manufactured, sold, and distributed by the Riddell Defendants, the helmets were defective in design, unreasonably dangerous, and unsafe for their intended purpose because they did not provide adequate protection against the foreseeable risk of concussive brain injury. The design defect includes, but is not limited to, the following:

- a. Negligently failing to design the subject helmet with a safe means of attenuating and absorbing the foreseeable forces of impact in order to minimize and/or reduce the forces and energy directed to the head;
- b. Negligently designing the subject helmet with a shock-attenuating system which was not safely configured;
- c. Negligently failing to properly and adequately test the helmet model;
- d. Other acts of negligence that may be discovered during the course of this matter; and
- e. Failing to warn Mr. Burnett that his helmet would not protect against the long-term health consequences of concussive brain injury and/or minimize the risk of concussive brain injuries while using his helmet.

66. At all times, the helmets were being used for the purpose for which they were intended.

67. The Riddell helmets worn by Mr. Burnett contained the design defects at the times they were manufactured by the Riddell Defendants.

68. The Riddell helmets worn by Mr. Burnett contained the same design defects when being used by Mr. Burnett.

69. The Riddell Defendants are strictly liable for designing a defective and unreasonably dangerous product and for failing to warn which were proximate and producing causes of the personal injuries and other damages including, but not limited to, economic damage as alleged herein. A safer alternative design was economically, practically and technologically feasible at the time the product left the control of the Riddell Defendants.

70. As a result of the Riddell Defendants' defective design for the Riddell helmets, and Mr. Burnett foreseeably using the product as it was intended when he sustained his injuries, Mr. Burnett has sustained such permanent injuries and is entitled to damages.

COUNT III – FAILURE TO WARN

71. Plaintiff reasserts and realleges each of the foregoing paragraphs as if fully set forth herein.

72. The Riddell Defendants knew or should have known of the substantial dangers involved in the reasonably foreseeable use of the Riddell helmets.

73. The Riddell Defendants failed to provide necessary and adequate safety and instructional materials and warnings of the risk and means available to reduce and/or minimize the risk of concussive brain injuries when using their helmets.

74. The Riddell Defendants ignored substantial amounts of research related to risks associated with mild traumatic brain injuries and concussions when developing a warning label for Riddell helmets. The warning on Riddell helmets was and is defective and inadequate throughout Mr. Burnett's career because it does not warn about the later life cognitive effects of concussive injury.

75. The Riddell Defendants knew that these substantial dangers were not readily recognizable to an ordinary consumer or user, and that such reasonable person would use these products without inspection for defects.

76. Mr. Burnett neither knew nor had reason to know of the existence of the aforementioned defects, or increased risks of harm.

77. Mr. Burnett was using the helmet in a reasonably foreseeable manner at all times. Mr. Burnett's damages were the legal and proximate result of the actions of the Riddell Defendants, who owed a duty to warn Mr. Burnett of the risks of substantial harm associated with the foreseeable use of their products.

78. As a result of the Riddell Defendants' failure to warn, Mr. Burnett has sustained permanent injuries and is entitled to damages.

COUNT IV – CIVIL CONSPIRACY

79. Plaintiff reasserts and realleges each of the foregoing paragraphs as if fully set forth herein.

80. For decades, the Conspirators agreed and conspired to defraud Mr. Burnett, among other athletes, by overtly acting in concert to perpetrate the fraudulent concealment of the decades of long scientific research that linked concussions, subconcussive impacts, and repetitive head trauma to emotional distress, cognitive impairment, intellectual deficits, and latent brain diseases and neurodegenerative brain disease.

81. The Riddell Defendants engaged in an unlawful agreement to intentionally fail to disclose, hide, conceal and misrepresent the truth about the risks and dangers of latent brain disease in athletes, like Mr. Burnett, in order to further their common scheme.

82. The Riddell Defendants knew and had reason to know the information that they were hiding, concealing, omitting and failing to disclose to Mr. Burnett, among others, was information upon which he would rely to his detriment.

83. The Riddell Defendants entered into the agreement to engage in false misrepresentations intended for the purpose to induce Mr. Burnett's and others' detrimental reliance, and to continue to promote the Riddell Defendants' business interests and profits.

84. The Conspirators knowingly failed to disclose and/or made continuing misrepresentations of material fact that there was an absence of any scientific basis to believe that repetitive mild traumatic brain injuries created any known long-term neuro-cognitive risks.

85. That misconduct by the named Riddell Defendants exposed Mr. Burnett to an increased risk of brain injury and was the actual and proximate cause of the Mr. Burnett's latent brain injuries, and he is entitled to damages.

COUNT V – NEGLIGENT MISREPRESENTATION

86. Plaintiff reasserts and realleges each of the foregoing paragraphs as if fully set forth herein.

87. From the time the Riddell helmets were first tested, studied, researched, evaluated, endorsed, manufactured, marketed and distributed, the Riddell Defendants made misrepresentations that the Riddell helmets were safe and fit for their intended purpose of protecting users, specifically football athletes, from harm. At all times mentioned, the Riddell Defendants conducted sales and marketing campaigns to promote the sale and safety of Riddell helmets and willfully deceived Mr. Burnett as to the health risks and consequences of using Riddell helmets.

88. The Riddell Defendants made the forgoing representations without reasonable ground for believing them to be true. These representations were made by the Riddell Defendants, by sales representatives and other authorized agents of the Riddell Defendants, and in publications and advertising directed to the public.

89. The representations by the Riddell Defendants were false because the Riddell helmets were not safe and fit for their intended purpose, as using the Riddell helmets has a serious propensity to cause brain injuries like those suffered by Mr. Burnett.

90. The Riddell Defendants and co-conspirator NFL additionally had a duty to disclose accurate information to the public about the risks of traumatic brain injuries. This duty arose because:

- a. The Riddell Defendants had superior and special knowledge of material medical information that Mr. Burnett and/or the public did not have access to, and was not readily available to Mr. Burnett or the public;
- b. The Riddell Defendants voluntarily and gratuitously inserted themselves into the business of studying the relationship between repetitive head impacts in football and brain injury; and
- c. The Riddell Defendants communicated with Mr. Burnett, the medical community, and the public while completely omitting material information about the true risks of brain trauma, or providing partial or ambiguous statements regarding safety and brain injuries, and the context of those communications shows that the NFL needed to complete or clarify those statements with all material information.

91. Despite their knowledge of such material facts, and generally speaking about concussions and brain injuries, the Riddell Defendant and the NFL negligently omitted to disclose material information to Mr. Burnett, the medical community, and the public regarding the link between brain injuries and the resulting negative neurological effects and conditions.

92. The Riddell Defendants actively omitted true information at a time when they knew or should have known because of their superior position of knowledge and access to vital information.

93. The Riddell Defendants failed to act with reasonable care by negligently omitting to disclose material information to Mr. Burnett and the public regarding the link between concussions and brain injury and resulting negative effects and cognition-impairing conditions.

94. Mr. Burnett justifiably relied on the Riddell Defendants' negligent misrepresentations by omission to his detriment as an athlete who used Riddell's helmet product, relying on what the Riddell Defendants' said to him and the general public while the Riddell Defendants omitted material information about concussions and other brain injuries.

95. In reliance on the misrepresentations made by the Riddell Defendants, Mr. Burnett was induced into using the helmets, believing them to be safe and protective. Mr. Burnett's reliance upon the Riddell Defendants' misrepresentations was justified because such misrepresentations were made and conducted by individuals and entities that were in a superior position of knowing the facts.

96. Mr. Burnett's reliance on the Riddell Defendants' negligent misrepresentations by omission was reasonable, given the Riddell Defendants' superior and unique vantage point on these issues.

97. Had Mr. Burnett been aware of such information, he would have taken protective measures or sought the diagnosis and treatment he needed had he been told the truth.

98. As a direct and proximate result of the Riddell Defendants' negligent misrepresentation by omission, Mr. Burnett has suffered and is at an increased risk of suffering serious injuries, including, but not limited to, long-term neurological damage and the serious symptoms, disorders, and diseases resulting from that damage.

JURY DEMAND

99. Plaintiff hereby respectfully demands a trial by jury.

PRAYER FOR RELIEF

100. Wherefore, as a direct and proximate result of the Riddell Defendants' wrongful, wanton, and reckless conduct, Plaintiff has sustained and will continue to sustain severe physical

injuries, severe emotional distress, mental anguish, economic losses and other damages for which he is entitled to compensatory and equitable damages, and declaratory relief in an amount to be proven at trial. Given the Riddell Defendants' reckless, willful, and wanton conduct as discussed herein, Mr. Burnett seeks punitive damages in an amount that the Court deems appropriate. Mr. Burnett also seeks such other and further relief to which he may be entitled to and that the Court deems proper, in law or in equity.

Dated: December 29, 2017

Respectfully submitted,

/s/ Adam Kenner

Adam B. Kenner (FL Bar No. 66216)

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MAG JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked. Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VIII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Civil Action No. _____

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Civil Action No. _____

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

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Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

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 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
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☐ Other *(specify)*: _____.

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I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

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Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

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 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
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I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

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V.

Defendant(s)

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

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I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

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Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

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Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

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Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

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If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

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I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: